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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,709	05/31/2001	Young-jin Song	Q64254	6220

7590 09/03/2003

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EXAMINER

RODRIGUEZ, ARMANDO

ART UNIT

PAPER NUMBER

2828

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N .	Applicant(s)
	09/867,709	SONG ET AL.
	Examiner	Art Unit
	Armando Rodriguez	2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 12 June 2003 .

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-13 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

*Paul J. D.*  
PAUL J. D.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_ .

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

However, regarding applicant's arguments on pages 6 and 7 pertaining to the double patenting warning, the double patenting warning will be maintained because the claims cover the same thing, which is the composition of the dielectric material and which are selected from the same group.

Applicant's amendment of claims 1 and 6, does not overcome the 35 USC 112 rejections, thereby the rejection will be maintained.

### ***Double Patenting***

Applicant is advised that should claim 4 be found allowable, claims 2 and 3 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim.

See MPEP § 706.03(k).

Applicant is advised that should claim 10 be found allowable, claims 7 and 8 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing

one claim to object to the other as being a substantial duplicate of the allowed claim.

See MPEP § 706.03(k).

Applicant is advised that should claim 9 be found allowable, claim 11 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim.

See MPEP § 706.03(k).

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1,6 and 13,

The limitation, which describes the thickness of the dielectric layer as "a desired resonance wavelength" implies a wish or hope for a result, thereby the claim, is vague and incomplete.

Regarding claim 6,

The claim describes steps for forming an intermediate layer and active layer but also describes steps for removing such layers thereby the claim is not clear and is contradicting the recited steps.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paoli (PN 5,699,375) in view of Thornton (PN 5,319,655) and Coman et al (PN 6,320,206).

Regarding claims 1,5,6,9,11,12 and 13,

Figure 1 of Paoli illustrates, a multiple wavelength laser system having plural laser units with a substrate (102), a DBR (104) having alternating layers which provide reflection, an active region (108), an intermediate region (114), top contact layers (160,162) and a top DBR with alternating layers which provide reflection. Paoli illustrates in figure 1 and discloses in column 4 line 64 obtaining different by adjusting the spacer (118).

Paoli does not disclose obtaining different wavelengths by adjusting the DBR.

Thornton illustrates in figure 3 and discloses in column 4 line 64 through column 5 line 2, obtaining different wavelength by adjusting the DBR, called mirrors in the reference.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to apply the teachings of Thornton in the laser

system of Paoli because the adjustment in the thickness of the DBR will provide different wavelengths.

Regarding claims 2-4,7,8 and 10,

Paoli does not disclose using the particular dielectric alternating materials as claimed in the invention.

Coman et al discloses in column 4 lines 9-15 that such materials as silicon dioxide, titanium oxide and zirconium oxide are used in DBR alternating layers to provide a low index of refraction and a high index of refraction layers.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use any of the known dielectric materials to form DBR of alternating layers within the semiconductor lasers.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Armando Rodriguez whose telephone number is (703) 308-6218. The examiner can normally be reached on 10-hour day / M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-4881.

  
Armando Rodriguez  
Examiner  
Art Unit 2828

  
Paul Ip  
Supervisor  
Art Unit 2828